
OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

Notice of Public Hearing and Public Comment Period

Pursuant to 42 CFR Part 431.408, notice is hereby given that: **(1) on Thursday, May 28, 2015, at 1:00 p.m., at the Indiana State House, Room 156A, 200 West Washington Street, Indianapolis, Indiana 46204-2786; and (2) on Tuesday, June 2, 2015, at 1:00 p.m., Indiana Government Center South, Conference Center Room 19, 402 West Washington Street, Indianapolis, Indiana 46204-2744**, the Indiana Family and Social Services Administration (FSSA) will hold public hearings to accept public comment on a proposed End Stage Renal Disease 1115 demonstration waiver (ESRD Waiver) application. The primary purpose of the ESRD waiver is to preserve Medicaid coverage for individuals with End Stage Renal Disease (ESRD) who would otherwise be unable to access kidney transplant services.

Both public hearings will be accessible via web conference at <http://webinar.isl.in.gov/fssain/>. In addition, FSSA will present the ESRD Waiver to the Medicaid Advisory Committee on Thursday, May 21, 2015, at 1:00 p.m., at the Indiana Government Center South, Conference Center Room B, 402 West Washington Street, Indianapolis, Indiana 46204-2744.

This notice also serves to open the **30-day public comment period, which closes June 19, 2015, at 4:30 p.m.**

PROGRAM DESCRIPTION, GOALS & OBJECTIVES

In 2014, Indiana Medicaid changed the disability determination process and began accepting the Social Security Administration (SSA) disability determinations as Medicaid determinations. This eliminated the more stringent state requirements previously in place and the spend-down program. Additionally, Indiana increased the income eligibility threshold for the aged, blind, and disabled and the Medicare Savings Program. Individuals who lost access to Medicaid coverage through the spend-down program were transitioned to other coverage options including the Federal Health Insurance Marketplace and Medicare supplemental plans.

Such changes put approximately 350 individuals with ESRD at risk of losing access to kidney transplant services. These individuals were dually eligible for Medicare and Medicaid, under age 65, and with income over 150 percent of the Federal Poverty Level (FPL). Due to their Medicare enrollment, federal law prevented them from purchasing insurance coverage through the Marketplace. Additionally, because Medicare supplemental plans are not guaranteed issue in Indiana for individuals under age 65, these individuals were also unable to receive supplemental coverage through Medicare options.

Thus, under applicable policies, individuals with ESRD who are unable to demonstrate the ability to pay for services are ineligible for kidney transplants and transplant services. The lack of supplemental coverage meant these individuals would be moved to "inactive" on hospital transplant lists and would be ineligible for a kidney transplant. Without a kidney transplant, individuals with ESRD would likely need to continue renal dialysis indefinitely.

In May 2014, the Centers for Medicare and Medicaid Services (CMS) authorized continued coverage for approximately 350 of such individuals on a temporary basis through emergency 1115 waiver authority. Eligible individuals included those with ESRD who met the eligibility criteria that were in effect prior to the State's change in the disability determination process, including the use of a spend-down. Since this authorization, the State has been developing a program to provide Medicaid eligibility to individuals with ESRD through 1915(i) State Plan authority. The State is seeking an extension of the prior 1115 waiver authority to provide continued Medicaid coverage, and therefore access to kidney transplant services, for this population until the 1915(i) program is fully operational. Initial enrollment for the 1915(i) program will begin July 1, 2016, and all ESRD Waiver enrollees who qualify for the 1915(i) will be transitioned by October 1, 2016.

Additionally, the State is seeking waiver authority to provide continued Medicaid coverage to individuals who are enrolled under the ESRD Waiver but are ineligible to transition to the 1915(i) program once it is fully operational. This will include individuals who either do not meet the clinical criteria of the program or have income in excess of 300 percent FPL. Beginning July 1, 2016, when the 1915(i) program becomes operational, the State will no longer accept new enrollees under the ESRD Waiver. At such time, all new Medicaid applicants with ESRD that are otherwise Medicaid ineligible may apply for coverage through the ESRD 1915(i) program.

ELIGIBILITY

There are currently two distinct eligibility groups enrolled and receiving coverage through the ESRD Waiver. The first group includes individuals with ESRD who were enrolled in Medicaid Spend Down and Medicare as of May 31, 2014, had income over 150 percent FPL, and were losing access to spend down due to Indiana's transition to a 1634 state. This group was subject to a spend-down requirement but did not have an upper income limit. The waiver requests authority to continue coverage of these individuals to prevent disruption in their care.

The second group includes current enrollees and new applicants who were not enrolled in Medicaid Spend Down and Medicare as of May 31, 2014, and who:

- have Medicare;
- are diagnosed with ESRD;
- have income between 150% and 300% of the FPL;
- incur medical expenses which bring their income to the Supplemental Security Income federal benefit rate (SSI/FBR);
- have resources less than \$1,500 for an individual or \$2,250 for a couple;
- are not institutionalized; and
- meet all other Medicaid eligibility criteria, including, but not limited to, state residency and citizenship.

As previously described, effective July 1, 2016, no new ESRD Waiver enrollees will be accepted. Effective July 1, 2016, individuals with ESRD who are otherwise Medicaid ineligible may apply for coverage through the ESRD 1915(i) program.

ENROLLMENT & FISCAL PROJECTIONS

The ESRD Waiver is projected to provide coverage to approximately 350 individuals between January and October 2016, the time period prior to full implementation of the 1915(i) program. It is projected once the 1915(i) program is implemented, approximately 50 individuals will remain covered by the ESRD Waiver. As of October 2016, no new enrollees will be permitted on the ESRD Waiver, and individuals with ESRD may seek Medicaid coverage through the 1915(i) program.

Over the three-year demonstration period (2016-2018), the program is expected to cost \$430,764 in state funds, and \$1,289,713 in total combined state and federal funds. The table below provides the estimated state and federal costs divided by year.

Estimated State and Federal Program Costs 2016-2018 (in millions)

| Calendar Year | Demonstration Year | Federal Costs | State Costs | Total |
|---------------|--------------------|---------------|-------------|-----------|
| 2016 | 1 | \$650,533 | \$326,243 | \$976,777 |
| 2017 | 2 | \$117,087 | \$58,719 | \$175,807 |
| 2018 | 3 | \$91,328 | \$45,801 | \$137,129 |

BENEFITS AND HEALTH CARE DELIVERY SYSTEM

Individuals eligible under the ESRD Waiver will be enrolled in a fee-for-service delivery system. They will be eligible for all medically necessary Medicaid covered services after meeting an ESRD liability, as authorized under the State's original 1115 expenditure authority in May 2014 and extended in November 2014. The liability will be calculated using spend-down methodology based on incurred medical costs. This liability operates similarly to a deductible. Individuals who incur medical expenses that bring their income to the SSI/FBR will have no further incurred costs subject to the ESRD liability.

COST SHARING REQUIREMENTS

Once the enrollee meets the ESRD liability, the enrollee will be eligible for full Medicaid benefits and will be subject to regular Medicaid State Plan cost-sharing as outlined below.

| Service | Co-Payment Amount | |
|----------------|--------------------------|--|
| Transportation | \$0.50 each one-way trip | Transportation services that pay \$10 or less |
| | \$1 each one-way trip | Transportation services that pay \$10.01 to \$50 |
| | \$2 each one-way trip | Transportation services that pay \$50.01 or more |

| | |
|---|-----|
| Pharmacy | \$3 |
| Non-Emergency Use of the Emergency Department | \$3 |

HYPOTHESES & EVALUATION

The ESRD Waiver will investigate the following hypotheses:

| # | Hypothesis | Evaluation Measures |
|---|--|--|
| 1 | ESRD Waiver enrollees will maintain access to kidney transplants. | <ul style="list-style-type: none"> • Track waiver enrollment. • Track waiver enrollees who are on the transplant list. • Track how many on the waiver leave the transplant list. • Determine the reason why individuals on the demonstration left the transplant list. |
| 2 | ESRD Waiver enrollees will report greater quality of life as a result of the supplemental coverage and ongoing access to the kidney transplant list. | <ul style="list-style-type: none"> • Track responses from enrollee satisfaction surveys. |

WAIVER & EXPENDITURE AUTHORITIES

The following includes a list of waiver and expenditure authorities for the ESRD Waiver:

1. Amount, Duration, Scope

Section 1902(a)(10)(B)

To the extent necessary to enable the State to provide State Plan benefits only after an individual meets a monthly spend down.

2. Cost-Sharing

Section 1902(a)(14) related to provisions in section 1916

To the extent necessary to enable the State to impose a spend-down methodology based on incurred medical costs. Individuals who incur medical expenses that bring their income to the SSI/FBR will have no further incurred costs subject to the ESRD liability.

3. Comparability

Section 192(a)(17)

To the extent necessary to enable the State to apply a spend-down methodology based on incurred medical costs.

REVIEW OF DOCUMENTS AND SUBMISSION OF COMMENTS

The proposed ESRD Waiver documents are available for public review at the FSSA, Office of General Counsel, 402 West Washington Street, Room W451, Indianapolis, Indiana 46204. The documents may also be viewed online at <http://www.in.gov/fssa/4898.htm>.

Written comments regarding the ESRD Waiver may be sent to the FSSA via mail at 402 West Washington Street, Room W374, Indianapolis, Indiana 46204, Attention: Amber Swartzell or via electronic mail at amber.swartzell@fssa.in.gov **through June 19, 2015**.

FSSA will publish a summary of the written comments, once compiled, for public review at <http://www.in.gov/fssa/4898.htm>.

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